

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DANIEL E. CARPENTER,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
JUSTICE and THE UNITED STATES
ATTORNEY FOR THE DISTRICT OF
MASSACHUSETTS,

Defendants.

No. 05-cv-11012-MEL

PLAINTIFF'S RESPONSE TO GOVERNMENT'S
L.R. 56.1 STATEMENT OF RELEVANT FACTS

Plaintiff Daniel E. Carpenter hereby submits the following response to the Government's L.R. 56.1 Statement of Relevant Facts dated July 1, 2005. Plaintiff's own L.R. 56.1 Statement of Material Facts of Record was previously filed with this Court on June 17, 2005.

A. Proceedings Related to Plaintiff's Criminal Indictment

1. Plaintiff admits the facts alleged in paragraph 1, but denies that such facts are relevant to the instant action.

2. Plaintiff admits the facts alleged in paragraph 2, but denies that such facts are relevant to the instant action.

3. Plaintiff admits the facts alleged in paragraph 3, but denies that such facts are relevant to the instant action.

4. Plaintiff admits the facts alleged in paragraph 4, but denies that such facts are relevant to the instant action.

B. Plaintiff's FOIA Request

5. Admitted.

6. Admitted.

7. Admitted.

8. Plaintiff admits the facts alleged in paragraph 8 only to the extent that Marie O'Rourke, Assistant Director of the FOIA/Privacy Act Unit of DOJ, sent a letter to Richard Order, Esq. dated October 13, 2004 and designated with the subject "Benistar Companies," in which Ms. O'Rourke stated that Request Number 04-3583 had been assigned to the request and further stated as follows:

EOUSA makes every effort to process most requests within a month (20 working days). There are some exceptions, for example, Project Requests take approximately nine months to process. Requests for "all information about myself in criminal case files" are usually Project Requests. If you have made such a request, you may either write us and narrow your request for specific items, or you may expect that the processing of your request may take nine months from the date of this letter.

The remainder of the paragraph is denied.

9. Admitted.

10. Plaintiff admits the facts alleged in paragraph 10 only to the extent that Marie O'Rourke sent a letter to Richard Order on or about December 15, 2004 assigning Request Number 04-4511 to his FOIA request designated "Daniel Carpenter/DMA." The remainder of the paragraph is denied.

11. Plaintiff admits the facts alleged in paragraph 11 only to the extent that Marie O'Rourke sent a letter to Richard Order dated February 18, 2005 stating that, "[u]pon re-reading your request, EOUSA is revising the previous replies, closing all presently open files, and assigning the above referenced new number [05-388] to the request . . . [;]" that "EOUSA can

neither confirm nor deny that such records [concerning John J. Koresko, V] exist” absent authorization from Mr. Koresko; and that records concerning Mr. Koresko are “categorically exempt from disclosure pursuant to sections (b)(6) and (b)(7)(C)” of FOIA. The remainder of the paragraph is denied.

12. Plaintiff admits the facts alleged in paragraph 12 only to the extent that Plaintiff’s counsel sent a letter to Assistant U.S. Attorney William Collier dated March 21, 2005 that stated, in part, that “Mr. Carpenter has requested documents provided by or obtained from John J. Koresko, V that relate to Mr. Carpenter, a number of businesses with which he is affiliated, the investigation leading to United States v. Carpenter, Criminal No. 04-10029-GAO or the criminal matter itself. Mr. Carpenter has also requested documents that reflect any conversations with Mr. Koresko.” The remainder of the paragraph is denied.

B.[sic] Filing of FOIA Complaint

12.[sic] Admitted.

13.[sic] Admitted.

14.[sic] Admitted.

Dated: July 12, 2005

PLAINTIFF,
DANIEL E. CARPENTER,

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